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## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Anticipated Classification of this application  
Class \_\_\_\_\_ Subclass \_\_\_\_\_  
Prior application: 08/801,471  
Examiner: Nguyen, K.  
Art Unit: 2731

BOX PATENT APPLICATION  
Assistant Commissioner for Patents  
Washington, D. C. 20231

### FILING UNDER 37 CFR § 1.53(B)

This is a request for filing for a

continuation       divisional       continuation-in-part (CIP)

application under 37 CFR § 1.53(b) of pending prior application Serial No., 08/801,471 filed on February 18, 1997

Inventors: Stuart Berman

for: FIBRE CHANNEL SWITCHING FABRIC

### I. COPY OF PRIOR APPLICATION AS FILED WHICH IS ATTACHED

I hereby verify that the attached papers are a true and complete copy of what is shown in my records to be the above-identified prior application, including the oath or declaration as originally filed. (37 CFR § 1.53)

39 Page(s) of Specification

10 Page(s) of Claims

1 Page(s) of Abstract

15 Sheet(s) of Drawings     formal       informal

4 Page(s) of Declaration and Power of Attorney

1 Small Entity Statement

OC-28278.1

### CERTIFICATE OF MAILING (37 C.F.R. §1.10)

I hereby certify that this paper (along with any referred to as being attached or enclosed) is being deposited with the United States Postal Service on the date shown below with sufficient postage as 'Express Mail Post Office To Addressee' in an envelope addressed to the Assistant Commissioner for Patents, Washington, D.C. 20231.

EL267173754US  
Express Mail Label No.

June 11, 1999  
Date of Deposit

Denise N. Doss  
Name of Person Mailing Paper  
Denise N. Doss  
Signature of Person Mailing Paper

- Pursuant to 37 CFR 1.63(d)(1), a newly executed oath or declaration is not required.
- A newly executed oath or declaration is filed herewith
- I hereby state that the amendment referred to in the declaration filed to complete the prior application, in accordance with the requirements of 37 CFR § 1.53(b), did not introduce new matter therein.

## II. AMENDMENTS

- Cancel in this application original Claims 1-29, 41-63 and 66-67 of the prior application before calculating the filing fee. (At least one original independent claim must be retained for filing purposes.)
- A Preliminary Amendment is enclosed. (Claims added by Amendment must be numbered consecutively beginning with the number next following the highest numbered original claim in the prior application.)

## III. INFORMATION DISCLOSURE STATEMENT

- An Information Disclosure Statement and PTO 1449 are submitted herewith.

## IV. PETITION FOR SUSPENSION OF PROSECUTION FOR THE TIME TO FILE AN AMENDMENT

- There is provided herewith a PETITION FOR SUSPENSION OF PROSECUTION FOR THE TIME NECESSARY TO FILE AN AMENDMENT (NEW APPLICATION FILED CONCURRENTLY).

## V. FEE CALCULATION

<b>BASIC FILING FEE:</b>						\$760.00	
Total Claims	13	-	20	=	0	x \$18.00	\$0.00
Independent Claims	2	-	3	=	0	x \$78.00	\$0.00
Multiple Dependent Claims	\$260	(if applicable)					\$0.00
Surcharge 37 CFR § 1.16(e)	\$130	(if applicable)					\$0.00
<b>TOTAL OF ABOVE CALCULATIONS</b>						\$760.00	
Reduction by $\frac{1}{2}$ for Filing by Small Entity. Note 37 CFR §§ 1.9, 1.27, 1.28. If applicable, Verified Statement must be attached.						\$380.00	
Misc. Filing Fees (Recordation of Assignment)						\$0.00	
<b>TOTAL FEES SUBMITTED HEREWITH</b>						\$380.00	

- The fee for extra claims is not being paid at this time.

## VI. SMALL ENTITY STATUS

A Verified Statement to establish small entity under 37 CFR §§ 1.9 and 1.27:

is attached

has been filed in the prior application and such status is still proper and desired. [37 CFR § 1.28(a)]

Filing Fee Calculation (50% of above) \$380.00

## VII. DRAWINGS

[NOTE: DO NOT CHECK THIS IF PRIOR CASE IS NOT TO BE ABANDONED.]

Transfer the drawings from the prior application to this application and, subject to Item 16 below, abandon said prior application as of the filing date accorded to this application. A duplicate copy of this request is enclosed for filing in the prior application file.  
[May only be used if signed by (1) applicant, (2) assignee of record or (3) attorney or agent of record and before payment of issue fee. 37 CFR § 1.138.]

Transfer the following sheet(s) of drawings from the prior application to this application.

New drawings are enclosed     formal     informal

## VIII. PRIORITY - 35 USC § 119

Priority of application Serial No. \_\_\_\_\_ filed on \_\_\_\_\_ in Country is claimed under 35 USC § 119.

The certified copy has been filed in prior U.S. application Serial No. \_\_\_\_\_ on \_\_\_\_\_.

The certified copy will follow.

## IX. RELATE BACK - 35 USC § 120

Amend the Specification by inserting before the first line the sentence:  
--This is a divisional of co-pending application Serial No. 08/801,471 filed February 18, 1997--

## X. INVENTORSHIP STATEMENT

With respect to the prior co-pending U.S. application from which this application claims benefit under 35 USC § 120, the inventor(s) in this application is (are):

- the same
- less than those named in the prior application and it is requested that the following inventor(s) identified above for the prior application be deleted:

[Name(s) of inventor(s) to be deleted]

- The inventorship for all the claims in this application are:
  - the same
  - not the same, and an explanation, including the ownership of the various claims at the time the last claimed invention was made, is submitted.

#### XI. ASSIGNMENT

- The prior application is assigned of record to Vixel Corporation.
- An Assignment of the invention to \_\_\_\_\_ is attached.

#### XII. FEE PAYMENT BEING MADE AT THIS TIME

- Not attached. No filing fee is submitted. [This and the surcharge required by 37 CFR § 1.16(e) can be paid subsequently.]
- Attached.
  - Filing fees. \$380.00
  - Recording assignment. [\$40.00 37 CFR § 1.21(h)(1)] —  
Petition fee for filing by other than all the inventors or person on behalf of the inventor where inventor refused to sign or cannot be reached.  
[\$130.00; 37 CFR §§ 1.47 and 1.17(h)]
  - Petition fee to Suspend Prosecution for the Time Necessary to File an Amendment (New Application Filed Concurrently.)  
[\$130.00; 37 CFR §§ 1.103 and 1.17(i)]
  - For processing an application with a specification in a non-English language.  
[\$130.00; 37 CFR §§ 1.52(d) and 1.17(k)]
  - Processing and retention fee.  
[\$130.00; 37 CFR §§ 1.53(f) and 1.21(l)]

**Total Fees Enclosed \$380.00**

### **XIII. METHOD OF PAYMENT OF FEES**

- Attached is a check in the amount of \$380.00.
- Charge Deposit Account No. **12-2475** in the amount of \_\_\_\_\_.

### **XIV. AUTHORIZATION TO CHARGE ADDITIONAL FEES**

The Commissioner is hereby authorized to charge the following additional fees by this paper and during the entire pendency of this application to Deposit Account No. **12-2475**:

- 37 CFR § 1.16(a) (filing fees)
- 37 CFR § 1.16(b) (presentation of extra claims)
- 37 CFR § 1.16(e) (surcharge for filing the basic filing fee and/or declaration on a date later than the filing date of the application)
- 37 CFR § 1.17 (application processing fees)
- 37 CFR § 1.18 (issue fee at or before mailing of Notice of Allowance, pursuant to 37 CFR § 1.311(b))

### **XV. INSTRUCTIONS AS TO OVERPAYMENT**

- Credit Deposit Account No. **12-2475**.
- Refund

### **XVI. POWER OF ATTORNEY**

- The power of attorney in the prior application is to \_\_\_\_\_.
- The power of attorney in the prior application is to the registered attorneys listed below and members of or associates in the law firm of **LYON & LYON LLP**, 633 West Fifth Street, 47<sup>th</sup> Floor, Los Angeles, California 90071, Registration No. 11,611, whose members are registered to practice in the U.S. Patent and Trademark office:

Roland N. Smoot, Reg. No. 18,718  
Conrad R. Solum, Jr., Reg. No. 20,467  
James W. Geriak, Reg. No. 20,233  
Robert M. Taylor, Jr., Reg. No. 19,848  
Samuel B. Stone, Reg. No. 19,297  
Douglas E. Olson, Reg. No. 22,798  
Robert E. Lyon, Reg. No. 24,171  
Robert C. Weiss, Reg. No. 24,939  
Richard E. Lyon, Jr., Reg. No. 26,300  
John D. McConaghy, Reg. No. 26,733  
William C. Steffin, Reg. No. 26,811  
Coe A. Bloomberg, Reg. No. 26,605  
J. Donald McCarthy, Reg. No. 25,119  
John M. Benassi, Reg. No. 27,483  
James J. Shalek, Reg. No. 29,749  
Allan W. Jansen, Reg. No. 29,035  
Robert W. Dickerson, Reg. No. 29,914  
Roy L. Anderson, Reg. No. 30,240  
David B. Murphy, Reg. No. 31,125

James C. Brooks, Reg. No. 29,898  
Jeffrey M. Olson, Reg. No. 30,790  
Steven D. Hemminger, Reg. No. 30,755  
Jerrold B. Reilly, Reg. No. 32,293  
Paul H. Meier, Reg. No. 32,274  
John A. Rafter, Jr., Reg. No. 31,653  
Kenneth H. Ohriner, Reg. No. 31,646  
Mary S. Consalvi, Reg. No. 32,212  
Lois M. Kwasigroch, Reg. No. 35,579  
Lawrence R. LaPorte, Reg. No. 38,948  
Robert C. Laurenson, Reg. No. 34,206  
Carol A. Schneider, Reg. No. 34,923  
Hope E. Melville, Reg. No. 34,874  
Michael J. Wise, Reg. No. 34,047  
Richard J. Warburg, Reg. No. 32,327  
Kurt T. Mulville, Reg. No. 37,194  
Theodore S. Maceiko, Reg. No. 35,593  
Bruce G. Chapman, Reg. No. 33,846  
F. T. Alexandra Mahaney, Reg. No. 37,668  
Reg. No. \_\_\_\_\_

The power appears in the original papers in the prior application.

The power does not appear in the original papers, but was filed on \_\_\_\_\_ in this application.

A new power has been executed and is attached.

Address all future communications to:

LYON & LYON LLP  
633 West Fifth Street, 47<sup>th</sup> Floor  
Los Angeles, California 90071  
(213) 489-1600  
Attention: David B. Murphy

#### XVII. MAINTENANCE OF CO-PENDENCY OF PRIOR APPLICATION

A petition, fee and response has been filed to extend the term in the pending prior application until \_\_\_\_\_. A copy of the petition for extension of time in the prior application is attached.

**XVIII. CONDITIONAL PETITIONS FOR EXTENSION OF TIME IN PRIOR APPLICATION**

A conditional petition for extension of time is being filed in the pending **prior** application. A copy of the conditional petition for extension of time in the **prior** application is attached.

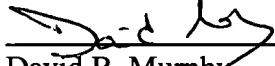
**XIX. ABANDONMENT OF PRIOR APPLICATION**

Please abandon the prior application at a time while the prior application is pending or when the petition for extension of time or to revive in that application is granted and when this application is granted a filing date so as to make this application co-pending with said prior application. At the same time, please add the words "now abandoned" to the amendment of the specification set forth in Item 2 above.

Respectfully submitted,

LYON & LYON LLP

Dated: June 11, 1999

By:   
David B. Murphy  
Reg. No. 31,125

DBM/dnd  
633 West Fifth Street, Suite 4700  
Los Angeles, California 90071-2066  
(714) 751-6606 or (213) 489-1600

Enclosures

Vixel Corporation  
Name of Assignee

15245 Alton Parkway, Suite 100, Irvine, CA 92618-2307  
Address of Assignee

Chief Technology Officer - Stuart Berman  
Title of person authorized to sign on behalf of assignee

Assignment recorded in PTO on 07/31/98, Reel 9355, Frame 0314